SINGLE BENCH

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IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) NO. 5798 / 2006

PETITIONERS

1. Vishnu Kumar Upadhaya
   S/o L. Upadhaya
   Aged about 44 years
   Assistant Teacher
   Govt. Middle School, Bhandarpur
   P.O- Dongargarh
   Dist- Rajnandgoan (C.G)

P.R. No. 5596/06
Presented by H.S. Ahluwalia
dated 9/10/06

2. Tekram Sahu
   S/o Bhav Singh Sahu
   Aged about 45 years
   Assistant Teacher
   Govt. Primary School, Bacherabhatta
   P.O- Dongargarh, Dist- Rajnandgoan

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3. Onkar Prasad Pandey
   S/o R.S.Pandey
   Aged about 44 years
   Assistant Teacher
   Govt. Higher Secondary School
   Dongargarh, Dist- Rajnandgoan (C.G)

OATH COMMISSIONER
MALVIYA
CG-2073/96
07/10/06
Bilaspur Chhattisgarh

4. Narad Das Vaishnu
   S/o Haricharan Das Vaishnu
   Aged about 49 years
   Assistant Teacher
   Govt. Higher Secondary School
   Dongargarh, Dist- Rajnandgoan (C.G)

5. Chandrashekar Bharane
Dulichand Bharne
Aged about 40 years
Assistant Teacher (Science)
Govt. Higher Secondary School
Dongargarh, Dist- Rajnandgoan (C.G)

6. Yodhan Das Sahu
S/o Makhan Das Sahu
Aged about 51 years
Assistant Teacher
Govt. Primary School, Nagatraee
P.O- Dongargarh, Dist- Rajnandgoan

7. Puranlal Sahu
S/o Raruharam Sahu
Aged about 43 years
Assistant Teacher
Govt. Primary School, Bharkatola
P.O- Tendunala, Dist- Rajnandgoan

8. Sitaram Kunjam
S/o Late Maheruram Kunjam
Aged about 40 years
Principal, Govt. Primary School,
Jhinjhari, P.O- Madiyan,
Dist- Rajnandgoan (C.G)

9. Bhuwanlal Kaushik
S/o Ram Singh Kaushik
Aged about 45 years
Assistant Teacher,
Govt. Primary School, Piperia
P.O- Murmunda, Dist- Rajnandgoan

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through Secretary, Department of School Education, D.K.S. Bhawan, Raipur (C.G)

2. Director
Public Instruction of Education
Near Education Board office
Raipur (C.G)

3. Secretary
Finance Department,
D.K.S Bhawan, Raipur (C.G)

4. District Education Officer
Rajnandgoan
Dist- Rajnandgoan (C.G)

5. Block Education Officer
Dongargarh
Dist- Rajnandgoan (C.G)

6. Principal
Govt. Boys Higher Secondary School
Dongargarh, Dist- Rajnandgoan (C.G)

OATH COMMISSIONER APARNA MALVIYA

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A SUITABLE WRIT ORDER OF DIRECTION TO DO JUSTICE IN THE MATTER.

DETAILS OF THE PETITION.

1. PARTICULARS OF THE PETITIONER:

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HIGH COURT OF CHHATTISGARH AT BILASPUR

W. P. (s) No. 5798 of 2006

Petitioners : Vishnu Kumar Upadhyaya
Versus
Respondents : State of Chhattisgarh & others

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

Shri H. S. Ahluwalia, Advocate for the Petitioner.
Shri Utkarsh Verma, Govt. Advocate for the State/respondents.

ORDER

(27th October, 2006)

1. Learned counsel appearing for the petitioners submits that while working as Assistant Teacher, the petitioners had gone on training to improve their qualifications on their own expenses and acquired B. Ed. Examination Certificate prior to 1.3.1999.

2. According to learned counsel for the petitioners, the petitioners are entitled to two advance increments in view of the decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another {2006 (II) MPJR-CG 96}. This Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), came to the conclusion that the teachers, who had obtained B. Ed. /B.T.I. Examination Certificate on their own expenses, are covered by the circular dated 24.12.98 (Annexure P/7) issued by the State Government of Madhya Pradesh.

3. Further in the matter of Smt. Manorama Shrivastava Vs. State of M.P. and others { 2000 (1) M.P.L.S.R. 136 } the Madhya Pradesh State Administrative Tribunal, Gwalior Bench, while considering the circular dated 1.3.1999 wherein, it is provided that the Assistant Teachers, who have acquired B.Ed. degree at their own cost between 23.10.1964 and 7.5.1973 shall be entitled to two advance increments, relied on decision in the case of Rakesh Kumar Shrivastava Vs. State of M.P. & others passed in O.A.No. 1632/99, decided on 12.10.1999 wherein it is observed that the

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circular dated 1.3.1999 cannot be made applicable retrospectively. Thus, a teacher, may be Assistant Teacher, who has obtained B.Ed. degree before 1.3.1999 is entitled to two advance increments.

4. It is pointed out by learned counsel appearing for the petitioners that the then State of Madhya Pradesh had filed a Special Leave Petition against the orders passed by the Tribunal and the Hon'ble Supreme Court dismissed Special Leave Petition No. 1999/2000 filed against the order of the Tribunal. Therefore, the direction to the effect that the circular dated 1.3.1999 cannot be made applicable retrospectively, passed by the Tribunal, becomes final and the same shall be applicable to all the Assistant Teachers who have obtained B.Ed./B.T.I. examination certificate before 1.3.1999. It is further substantiated by a circular dated 17.10.2003 issued by the present State of Madhya Pradesh wherein the circular clearly states about the decision of the Supreme Court.

5. Learned counsel for the petitioners further submits that the facts and question of law involved in the present case are squarely covered by decision of this Court in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), to which learned counsel appearing for the respondents fairly concedes and agrees with the averment made by learned counsel appearing for the petitioners.

6. Accordingly, the writ petition is allowed in terms of the order passed in the case of Yashwant Kumar Bharadwaj Vs. Municipal Corporation, Durg and another (Supra), subject to verification of the fact as to whether the petitioners have acquired B.Ed./B.T.I. Examination Certificate on their own expenses and further whether they have been paid two advance increments or not. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Thakur